ESTTA Tracking number:

ESTTA253696

Filing date:

12/08/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92045173
Party	Defendant Cyclopian Music, Inc.
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Submission	Motion to Suspend for Settlement Discussions
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Date	12/08/2008
Attachments	Motion_for_Suspension_for_Settlement_with_Consent.pdf (4 pages)(261101 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GLENN DANZIG,	.)
Petitioner,)
VS.) Cancellation No. 92045173
CYCLOPIAN MUSIC, INC.,) Reg. Nos. 2793533, 2634215, 2735848
Registrant.	j j

United States Patent and Trademark Office Attn: Trademark Trial and Appeal Board P.O. Box 1451 Alexandria, VA 22313-1451

MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT

Cyclopian Music, Inc. ("Cyclopian") respectfully requests that the proceedings in the above-captioned cancellation action continue to be suspended to allow the parties to continue their settlement discussions. The parties have been engaged in settlement negotiations with respect to this cancellation action since the Board's suspension order dated March 17, 2008. These settlement discussions have involved the three registered "Misfits" marks that Petitioner Glenn Danzig ("Danzig") is attempting to cancel by this action. Over the course of the last few months, the discussions have proceeded to the point where the parties have exchanged settlement proposals and agreed in principle on terms that would resolve the dispute between the parties over ownership and use of the "Misfits" marks. The parties are still negotiating the issue of

CERTIFICATE OF ELECTRONIC TRANSMISSION

Date: December 8, 2008

I hereby certify that this paper is being transmitted electronically to the United States Patent & Trademark Office through the ESTTA electronic filing system on the date indicated above and is addressed to the Commissioner of Trademarks, P.O. Box 1451 Alexandria, Virginia 22323-1451

Christopher M. Verdini, Esq.

future enforcement of the "Misfits" marks against third-parties and need additional time to attempt to reach an agreement on this settlement term.

Moreover, the parties also need additional time to settle this matter as a result of a new cancellation action filed by Danzig while the parties' settlement discussions were on-going. Specifically, on or around October 6, 2008, Danzig filed a separate cancellation action (Cancellation No. 92050014) seeking to cancel Registration No. 2,770,984 owned by Cyclopian (the "New Cancellation Action") for its "Skull Design" mark. The New Cancellation Action asserts the same or similar grounds as are asserted in this cancellation action. Although the grounds for the New Cancellation Action are substantially the same, the underlying facts related to the creation, ownership and use of the "Skull Design" mark raise new and unrelated issues that the parties had not considered in their previous settlement discussions. Because the parties believe that it would be advisable, if possible, to settle both of the cancellation actions in one agreement, the parties need additional time to consider these new issues to determine whether it is feasible to agree to such a settlement. The parties have begun such initial discussions.

With respect to discovery in this cancellation action, in or around May 2006, Cyclopian served interrogatories and document requests which Danzig answered in June 2006. In or around August 2006, Cyclopian subpoenaed certain third parties for documents and testimony and took the deposition of one such third party. Later in August 2006, Cyclopian noticed the deposition of Danzig. Danzig's deposition was scheduled for September 28, 2006 but was postponed after Danzig filed a motion for summary judgment on September 22, 2006. The parties also have written discovery requests and deposition notices that remain outstanding.

For the reasons set forth above, the parties respectfully request that the Board suspend Cancellation No. 92045173 for further settlement and the dates of the action be reset as follows:

Proceedings resume: 2/5/2009

Discovery Closes: 6/5/2009

Plaintiff's 30-day Trial Period Ends: 9/3/2009

Defendant's 30-day Trial Period Ends: 11/2/2009

Plaintiff's 15-day Rebuttal Period Ends: 12/17/2009

Cyclopian has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Respectfully submitted,

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Attorneys for Registrant Cyclopian Music, Inc.

Date: December 8, 2008

CERTIFICATE OF SERVICE

The undersigned herby certifies that a copy of this paper has been served upon all parties, at their address of record by First Class Mail on this date.

Date: December 8, 2008

Christopher M. Verdini